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Supreme Court, U.S.
FILED

No. 101066 FEB 26 2011

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IN THE
SUPREME COURT OF THE UNITED STATES

Isidoro Rodriguez,

Petitioner,

v.

United States Tax Court,

Respondent.

On Petition For Writ of Certiorari
to the United States Court of Appeals
for the District of Columbia Circuit

APPENDIX TO PETITION FOR WRIT OF CERTIORARI

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UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE D.C. CIRCUIT

No. 10-1016 USTC-ADM 3-09

Filed November 30, 2010

Isidoro Rodriguez, Appellant

v.

United States Tax Court, Appellee

BEFORE: Sentelle, Chief Judge, and Ginsburg, Henderson, Rogers, Tatel, Garland,* Brown, Griffith, and Kavanaugh, Circuit Judges

ORDER

Upon consideration of the petition for rehearing en banc, and the absence of a request by any member of the court for a vote, it is

ORDERED that the petition is denied.

Per Curiam

FOR THE COURT,
Mark J. Langer, Clerk
BY: /s/Michael C. McGrail
Deputy Clerk

*Circuit Judge Garland did not participate in this matter.

UNPUBLISHED
UNITED STATES COURT OF APPEALS
FOR THE D.C. CIRCUIT

No. 10-1016 USTC-ADM 3-09
Filed November 30, 2010

Isidoro Rodriguez, Appellant
v.
United States Tax Court, Appellee

BEFORE: Rogers, Tatel and Griffith, *Circuit Judges*

JUDGEMENT

This appeal was considered on the record form the United States Tax Court and on the breifs filed by the parties. See Fed. R. App. P. 34(a)(2); D.c. Cir. Rule 34(j). It is

ORDERED AND ADJUDGED that the United States Tax Court orders disbarring appellant and denying his motions for reconsideration and to vacate be affirmed. Whether this court reviews the orders for an abuse of discretion or de novo, the Tax court did not err in disbarring appellant. Appellant has not demonstrated that the Tax Court proceedings suffered from a lack of due process or infirmity or proof or that disbarment would result in grave injustice. See Selling v. Radford; see also In re Rodriguez 2009 WL 1953670 (D.C. Cir. Apr. 21, 2009). To the extent appellant challenges the disbarment order as being based on a Virginia State Disciplinary Board order that violates Virginia law, the Tax Court properly relied on the Virginia Supreme Court's decision affirming the

Virginia State Disciplinary Board's disbarment order. See In re Sibley, 564 F.3d 1335, 1340 (D.C. 2009)(rejecting challenge to state disciplinary order as void and stating that "this court cannot look beyound the controlling decisions of the . . . state courts"). Nor has appellant shown that the Tax court disbarred him for litigating to enforce his statutory rights or as the result of a conspiracy.

Pursuant to D.c. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam

/s/ JWR
JBJ
BK

UNITED STATES TAX COURT
WASHINGTON, DC 20217

In re: Isidoro Rodriguez

ORDER

Upon consideration of the Motion to Vacate filed by Mr. Isidoro Rodriguez on November 9, 2009, it is

ORDERED that the Motion to Vacate is denied.

/s/ Laurence J. Whalen, Judge
Vice Chair, Committee on
Admissions, Ethics, and
Discipline

Dated: November 17, 2009
Washington, D.C.

UNITED STATES TAX COURT
WASHINGTON, DC 20217

In re: Isidoro Rodriguez

ORDER

Upon consideration of the Motion for reconsideration of Finding and Opinion filed by Mr. Isidoro Rodriguez on November 9, 2009, it is

ORDERED that the Motion for Reconsideration of Finding and Opinion is denied.

/s/ Laurence J. Whalen, Judge
Vice Chair, Committee on
Admissions, Ethics, and
Discipline

Dated: November 17, 2009
Washington, D.C.

UNITED STATES TAX COURT
WASHINGTON, DC 20217

In re: Isidoro Rodriguez

ORDER OF DISBARMENT

The Court received information that effective October 27, 2006, by Order of the Virginia State Bar Disciplinary Board, Isidoro Rodriguez's license to practice law in the Commonwealth of Virginia was revoked. The Court also received information that by Order of the United States Court of Appeals for the Fourth Circuit dated December 21, 2006, Isidoro Rodriguez was disbarred from the practice of law in that Court.

By Order to Show Cause dated March 9, 2007, mailed to Isidoro Rodriguez by both certified and regular mail, the Court afforded Mr. Rodriguez the opportunity, on or before April 17, 2007, to respond and to request a hearing to be held on May 1, 2007, why he should not be suspended or disbarred. On April 2, 2007, the Court received Isidoro Rodriguez's notice of intent to appear and response to Order to Show Cause. Upon due consideration, by Order dated April 13, 2007, this Court continued Isidoro Rodriguez's hearing on the Court's Order to Show Cause dated March 9, 2007 to July 17, 2007. On May 7, 2007, the Court received Isidoro Rodriguez's second notice of intent to appear and second response to the Order to Show Cause. Upon due consideration, by Order dated May 14, 2007, this Court continued Isidoro Rodriguez's hearing on the Order to Show Cause dated March 9, 2007 pending

further direction by the Court and directed him to file a status report as to the status of his Virginia disciplinary matter by August 31, 2007.

After a series of Orders and status reports, this Court again afforded Isidoro Rodriguez the opportunity, on or before August 18, 2009, to respond and to request a hearing to be held on September 1, 2009, why he should not be suspended or disbarred. Upon consideration of Mr. Rodriguez's submissions and his testimony at the Order to Show Cause hearing on September 1, 2009, and for reasons set forth in the attached Memorandum Sur Order, it is

ORDERED: That the Court's Order to Show Cause is made absolute in that, under the provisions of Rule 202 of the Rules of Practice and Procedure of this Court, Isidoro Rodriguez is disbarred forthwith from further practice before the United States Tax Court, and it is further

ORDERED: That Isidoro Rodriguez be and hereby is prohibited from holding himself out as a member of the Bar of the United States Tax Court, and it is further

ORDERED: That Isidoro Rodriguez shall, within 20 days of service of this order upon him, file with the Court motions to withdraw as counsel in all pending cases in which heis counsel of record, in accordance with Rule 24 of the Court's Rules, and, in addition, surrender to this Court his Certificate of Admission to practice before this Court.

By the Court:
(Signed) John 0. Colvin
Chief Judge

Dated: October 16, 2009 Washington, D.C.

In re Isidoro Rodriguez

Before: Marvel and Morrison, Judges, and Whalen, Senior Judge

MEMORANDUM SUR ORDER

Disciplinary proceedings were initiated against Mr. Isidoro Rodriguez, a member of. the Bar of this Court, by Order to Show Cause dated March 9, 2007, directing Mr. Rodriguez to show cause why he should not be suspended or disbarred from practice before this Court or otherwise disciplined. See Rule 202(c) of the Tax Court Rules of Practice and Procedure. All rule references herein are to the Tax Court Rules of Practice and Procedure.

The Order to Show Cause issued to Mr. Rodrig3léz on March 9, 2007, recites the fact that his license to practice law had been revoked effective October 27, 2006, by Order of the Virginia State Bar Disciplinary Board (hereinafter Disciplinary Board) entered November 28, 2006. The Order of the Disciplinary Board was affirmed by the Supreme Court of Virginia on June 29, 2007, and on July 17, 2007. The Order to Show Cause also notes that Mr. Rodriguez had been disbarred from practice by an Order of the United States Court of Appeals for the Fourth Circuit dated December 21, 2006.

Mr. Rodriguez appeared before a panel of this Court on September 1, 2009, at a hearing that had been scheduled and rescheduled at Mr. Rodriguez' request, and he was heard on his own behalf. After the hearing,

the panel took the matter under consideration.

BACKGROUND

The Disciplinary Board revoked Mr. Rodriguez' license to practice law in the Commonwealth of Virginia as a result of his actions in two sets of cases. The first group of case$_4$s involved his relationship and work with Sea Search Armada, a Caymans entity that invests in and conducts searches for sunken treasure ships. The Disciplinary Board found that he had violated Rules 1.2(a), 1.5(a), 1.16(a) (3), 3.4(i), 7.1(a), and 8.4(b) and (c) in his relationship with and representation of Sea Search Armada, including his attempts to recover unpaid attorneis' fees. The second group of cases involved ongoing litigation for the custody of his son. The Disciplinary Board found that Mr. Rodriguez had violated RUles 1.7(b), 3.1, 3.4(d), (h), (i), and (1), 3.7(a), 4.4, and 8.4(b) and (c) during that litigation.

The Order of the Disciplinary Board entered November 28, 2006, provides detailed explanations of the bases for the Board's finding that Mr. Rodriguez had violated the Rules of Professional Conduct. The following is an extended excerpt from the Board's Order describing Mr. Rodriguez's misconduct:

> VSB Docket No. 04-052-0794 [Search Armada Litigation]
>
> (a) The Respondent violated Rule 1.2(a) (Scope Representation) in that his authorization to act on behalf of his client SSA (Sea Search Armada] was limited, but he nonetheless acted without written authorization.
>
> (b) The Respondent violated Rule 1.5(a) 1-8 (Fees) with his claim of a fee of 4.5 million dollars.

Respondent acknowledged that the fee arrangement was a contingent fee arrangement and no recovery had been made. Therefore, there was no basis to claim a fee. Furthermore, the amount of the fee, $4.5 million, does not appear to have any reasonable relationship to work actually performed which is necessary for a recovery on a *quantum merit* basis. Respondent testified that he determined the amount based upon what the salary would be for a legal representative for a U.S. company operating in a foreign country.

(c) The Respondent violated Rule 1.16(a) (3) (Declining or Terminating Representation) by representing that he was SSA's managing attorney in a FOIA request (VSB Ex. 23), which he made well after SSA had terminated their relationship.

(d) The Respondent violated Rule 3.4(I) (Fairness to Opposing Party and Counsel) by filing the litigation in the United States District Court for the Eastern District of Virginia and the Circuit Court of Fairfax County, Virginia. It should appear to any reasonably competent lawyer that the courts did not have jurisdiction over the parties named as defendants. Even giving the Respondent the benefit of the doubt as to the first suit, he received a ruling that the court lacked personal jurisdiction over the defendants which was upheld on appeal. He nonetheless filed a second suit with the same infirmity seeking the same recovery. Furthermore, his suit in the Circuit Court of Fairfax County, Virginia, included as a defendant Harrison Pledger and his law firm, merely because Mr. Pledger had acted as defense counsel in the two suits in the federal court.

(e) The Respondent violated Rule 7.1(a) 1-5 (Communication Concerning a Lawyer's Services) by

misrepresentation on his website and resume. VSB Exhibits 24 and 25 show that Mr. Rodriguez, on the website he created, misrepresented his relationship with SSA. He misrepresented what he did for SSA and how he became employed by SSA. He misrepresented his education by listing an LLM civil law degree from the University of Bordeaux. He improperly claimed a certification (the American Trial Lawyer Ultimate Trial Lawyer Certification) where no such certification exists.

(f) The Respondent violated Rule 8.4(b) and 8.4(c) (Misconduct) by representing in his FOIA request that he was the managing attorney for SSA, when the evidence shows that he clearly was not.

VSB Docket No. 04-052-1044

(a) The Respondent violated Rule 1.7(b) 1-2 (Conflict of interest) in his attempt to represent his son in the District Court for the District of Columbia and his continued actions to do so even in the face of a court ruling that there was a conflict.

(b) The Respondent violated Rule 3.1 (Meritorious Claims and Contentions) by his litigation in the District Court for the District of Columbia and his actions in the Circuit Court of Fairfax County, Virginia. The complaint filed by the Respondent with all the parties he named as defendants standing alone shows that the Respondent has violated this Rule. The numerous pleadings filed thereafter further demonstrate that the Respondent's aim was to punish anyone who had any connection with the litigation filed by his former wife to regain custody of their son. Any attorney who had in any way appeared in that litigation ended up being named as a defendant. NCMEC and several of its staff were named as

defendants resulting in a legal cost to NCMEC alone of $160,090.00 Attorney Patrick Stiehm who had taken Respondent's ex-wife's case pro bono was named as a defendant thereby making good on Respondent's claim that Stiehm's representation would cost him a "big chunk of change."

Furthermore, in litigation in Fairfax County, Respondent subpoenaed two members of NCMEC as witnesses for a hearing involving his efforts to file a Statement of the Case for an appeal, when these two staff members had nothing to do with the Fairfax litigation. While the subpoenas were quashed they nevertheless had the effect of harassing the NCMEC staff members. Remarkably this is the only instance in which the Respondent was sanctioned by a court.

Perhaps if he had been sanctioned earlier, either by the United States District Court for the Eastern District of Virginia or the District Court for the District of Columbia, such action would have put a stop to Respondent's unwarranted and vexatious conduct. Unfortunately neither of the courts saw fit to impose sanctions.

(c) The Respondent violated Rule 3.4(d)(h(i)(j) (Fairness to Opposing Party and Counsel) by the following conduct: (1) by continuing to attempt to represent his son in the District of Columbia litigation in the face of a court ruling, in violation of Rule 3.4(d); (2) by threatening the NCMEC attorney with a bar complaint and filing a criminal complaint with the FBI, in violation of 3.4(h); (3) by filing a motion for sanctions against Patrick Stiehm and naming Stiehm as a defendant in the District of Columbia litigation and by his entire course of conduct in the District of Columbia litigation, in violation of Rule 3.4(i)(j);

(d) The Respondent violated Rule 3.7(a) 1-3 (Lawyer as Witness) by acting as an advocate when he was a necessary witness in the Eastern District of Virginia litigation.

(e) The Respondent violated Rule 4.4 (Respect for the Rights of Third Persons) by the whole course of litigation in the District Court for the District of Columbia. In addition, his subpoena of Ms. Brinkerhoff and Mr. Dennis to the Fairfax Circuit Court for a bearing on the Statement of Facts to be submitted for appeal further demonstrates a violation of this Rule.

(f) The Respondent violated Rule 8.4(b) and 8.4(c) (Misconduct) in asserting a RICO claim and by his letter to the FBI.

Thereafter, the Board received further evidence of aggravation and mitigation from the Bar and the Respondent, including the Respondent's prior disciplinary record. The Board recessed to deliberate what sanction to impose upon its findings of misconduct by the Respondent. After due deliberation the Board reconvened to announce the sanction imposed. The Chair announced the sanction as REVOCATION.

The Board in reaching its decision of revocation recognized that the violation of certain of the Rules such as Rule 1.5(a), 7.1, and 8.4(b) & (c) standing alone may not merit the ultimate sanction of revocation. However, the Respondent's conduct by pursuing litigation in Virginia in Docket No. 04-052-0794 and in the District of Columbia in Docket No. 04- 052-1044 is conduct that cannot be tolerated. While a court through sanctions can protect itself from such conduct by a

deceitful and unprincipled attorney, the public must look to the VSB for protection. The other violations demonstrate Respondent's complete disregard for the Rules of Professional Conduct.

Furthermore the Respondent was defiant to any criticism of his conduct in pursuing what can only be described as meritless and vexatious litigation. This same defiance was evident to the Board as the Respondent sought to justify his conduct. Therefore the Board concluded that the sanction of revocation was the only remedy by which the public and bar could be adequately protected.

Some of the litigation involving Sea Search Armada and related parties is reported at Rodriguez v. Harbeston, 2000 WL 34556077 (E.D.Va. 2000), affd., 22 F. Appx. 202 (4th Cir. 2001), cert. denied, 536 U.S. 924 (2002); Rodriguez v. HFP Inc., et al., 77 F. Appx. 663 (4th Cir. 2003), cert. denied 541 U.S. 903 (2004); Rodriguez v. Pereira, 163 F. Appx. 227 (4th Cir. 2006), cert. denied, 549 U.S. 954 (2006)

Some of the custody litigation is reported at Rodriguez Hazbun v. Escaf, 2004 WL 1487119 (Va. App. 2004); Escaf v.Rodriguez, 200 F. Supp.2d 603 (E.D. Va. 2002), 191 F. Supp.2d 685 (E.D. Va. 2002), affd., 52 F. Appx. 207 (4th Cir. 2002), cert. denied, 538 *U.S.* 1000 (2003); Rodriguez v. Nati Center for Missing and Exploited Children, et al., 2005 WL 736526 (D.D.C. 2005), affd., 2005 WL 3843612 (D.C. Cir. 2005), cert. denied 547
U.S. 1106 (2006) . Also see Rodriguez v. Editor in Chief, 285 F. Appx. 756 (D.C. Cir. 2008).

Reciprocal Discipline by the United States Court of Appeals for the Fourth Circuit

The initial order of the United States Court of Appeals for the Fourth Circuit disbarring Mr. Rodriguez, filed December 21, 2006, states that the court had received no response to its Notice to Show Cause from Mr. Rodriguez. At some point, he filed with the court a motion f or reconsideration of his disbarment. In response, the court issued a Notice to Show Cause on March 23, 2007, vacating its order of December 21, 2006, and again ordering him to show cause why he should not be disbarred from practice. That matter was heard by the court on September 25, 2008, and in an unpublished opinion, the court again ordered Mr. Rodriguez's disbarment. In re Isidoro Rodriguez, No. 06-9518, slip op. at 8 (4th Cir., Oct. 20, 2008).

Reciprocal Discipline by the United States Court of Appeals for the Third Circuit

Under the rules of the United States Court of Appeals for the Third Circuit, the revocation of Mr. Rodriguez's license to practice law in the Commonwealth of Virginia, caused his automatic disbarment from practice before that Court of Appeals. See In re Isidoro Rodriguez, 304 F. Appx. 947, 949-50 (3d Cir. 2008), cert. denied, Rodriguez v. Standing Committee on Attorney Discipline, 129 S. Ct. 2384, 173 L. Ed. 2d 1326 (2009). Mr. Rodriguez filed an application for reinstatement as a member in good standing of the bar of that court. Id. at 950. That matter was heard by the court's Standing Committee

on Internal Discipline on September 23, 2008, and the committee's report recommending that Mr. Rodriguez's petition be denied was adopted by the court in an order issued December 10, 2008. Id. at 949-48.

Reciprocal Discipline by the United States Court of Appeals for the District of Columbia Circuit

It appears that on May 27, 2008, the United States Court of Appeals for the District of Columbia Circuit issued an Order to Show Cause to Mr. Rodriguez based upon the revocation of his license to practice in the Commonwealth of Virginia. Brief for Respondent at 7, In re Isidoro Rodriguez, Case No. 08-7134, 2009 WL1953670 (DC Cir. 2009). After briefs and a hearing on the matter, the court filed its Order of Disbarment on April 21, 2009, disbarring Mr. Rodriguez. In re Isidoro Rodriguez, 2009 WL1953670 (DC Cir. 2009)

Appellate Review of the Order of the Disciplinary Board by the Virginia Supreme Court

The record of this proceeding contains the order of the Virginia Supreme Court issued June 29, 2007, stating that, after review, the court had found no error in the order of the Disciplinary Board disbarring Mr. Rodriguez and that the order is affirmed. It appears that the Virginia Supreme Court issued a second order on July 17, 2007, affirming the Disciplinary Board, that is not in the record of this proceeding. That order is described in the opinion of the United States Court of Appeals for the Third Circuit denying Mr. Rodriguez' application for reinstatement as a member of the bar of

that court. See In re Isidoro Rodriguez, 304 F. Appx. 947, 949 (3d Cir. 2008), cert. denied, Rodriguez v. Standing Committee on Attorney Discipline, 129 S. Ct. 2384, 173 L. Ed. 2d 1326 (2009). The opinion of the Court of Appeals states as follows:

> Following entry of the disbarment order [by the Disciplinary Board] Rodriguez appealed to the Supreme Court of Virginia, which on June 29, 2007, issued an order affirming the Disciplinary Board's order of November 28, 2006. * * * Then on July 17, 2007, for the reasons that it had stated in its June 29, 2007 order the Supreme Court of Virginia again affirmed the order of the Disciplinary Board and in a separate order also entered on July 17, 2007, the court denied Rodriguez's motion to defer issuance of the mandate in the case. Id.

The opinion of the Court of Appeals quotes the second order of the Supreme Court of Virginia as follows:

> Upon an appeal of right from an order entered by the Virginia State Bar Disciplinary Board.
>
> For the reasons stated in this Court's order dated June 29, 2007 and filed with the record, the Court is of [the] opinion that there is no error in the order appealed from. Accordingly, the order is affirmed. The appellant shall pay to the appellee thirty dollars damages.
>
> This order shall be certified to the Virginia State Bar Disciplinary Board. Id. at 954

The July 17, 2007, order is also mentioned in the unpublished opinion of the United States Court of Appeals for the Fourth Circuit disbarring Mr. Rodriguez which states, "By order of July 17, 2007, the Supreme Court of Virginia affirmed the Board." In re Isidoro Rodriguez, No. 06-9518, slip op. At 3-4 (4th Cir. Oct. 20, 2008).

DISCUSSION

Mr. Rodriguez's license to practice law in the State of Virginia was revoked by order of the Disciplinary Board, and the Supreme Court of Virginia affirmed. While that action is not conclusively binding on us, it is entitled to deference and respect in this Court. See, e.g., In Re Ruffalo, 390 U.S. 544, 547 (1968); Theard v. United States, 354 U.S. 278, 282 (1957); Selling v. Radford, 243 U.S. 46 (1917). That means, generally, we will give reciprocal effect to the Order of the Disciplinary Board

> unless, from an intrinsic consideration of the state record, one or all of the following conditions should appear: 1. That the state procedure, from want of notice or opportunity to be heard, was wanting in due process; 2, that there was such an infirmity of proof as to facts found to have established the want of fair private and professional character as to give rise to a clear conviction on our part that we could not, consistently with our duty, accept as final the conclusion on that subject; or 3, that some other grave reason existed which should convince us that to allow the natural consequences of the

> judgment to have their effect would conflict with the duty which rests upon us not to disbar except upon the conviction that, under the principles of right and justice, we were constrained so to do. [Selling v. Radford, supra at 51.]

The question for us to answer is whether Mr. Rodriguez has shown good cause, during this disciplinary proceeding, why he should not be disciplined by this Court, taking into account the factors enunciated by the Supreme Court in Selling v. Radford, supra, quoted above. See generally, In the Matter of Edelstein, 214 F.3d 127, 131-132 (2nd Cir. 2000); Greer's Refuse Service, Inc., et al., v. Browning-Ferris Industries, 843 F.2d 443 (11th Cir. 1988) ; In re Evans, 834 F.2d 90, 90-91 (4th Cir. 1987)

In response to the Order to Show Cause, Mr. Rodriguez makes three arguments. First, he argues that "this Court is prohibited from imposing any discipline on Rodriguez based on the *void* orders of the Supreme Court of Virginia and its agent, Virginia State Bar Disciplinary Board (VSBDB)". As to this argument, Mr. Rodriguez asserts:

> The evidence confirms that the VSBDB *void* order was issued as the linchpin to a criminal conspiracy of Government attorneys and judges in violation of 18 U.S.C. §§ 241, 242, 1204, and 1513, to deny Rodriguez access to an impartial jury trial and court and deprive him of his right to employment as an attorney as punishment for petitioning Congress and the General Assembly and for litigating to enforce his Federal and

Virginia Statutory rights.

Mr. Rodriguez's second argument is that the disbarment orders of the United States Court of Appeals for the Third Circuit, Fourth Circuit, and District of Columbia Circuit are void because those courts "under the direction of Chief Justice John G. Roberts" used "the U.S. Judicial Conference secret meetings procedure to criminally conspire with government attorneys Jane and John Doe to deny Rodriguez access to impartial judicial review to deprive him of substantive and procedural *due process* by 'assuming' and 'deeming' the VSBDB *void* order as valid-dispute the clear ongoing violations of Article VI §~l, 5, and 5 of the Constitution of Virginia, and Va. §~54.l-3909, 54.1-3910, 54.1-3915, and 54.1-3935."

Mr. Rodriguez's third argument is that this Court is prohibited from disciplining Mr. Rodriguez because of the "ongoing criminal conspiracy by Federal and Virginia Government attorney and judges acting outside their authority in violation of 18 U.S.C. §~2Ol, 241, 242, 1341, 1343, 1513, 1951, and 1962." According to Mr. Rodriguez, this Court must investigate the matter and put an end to the enforcement of the "VSBDB *void* order."

As the above summary demonstrates, the premise of Mr. Rodriguez's entire argument in this proceeding is that the order of the Disciplinary Board revoking his license to practice is void and cannot be enforced because the Disciplinary Board had no authority to issue the order. He argues that the Supreme Court of the Commonwealth of Virginia "has

neither authority to delegate judicial power to the VSBDB nor the power to create an attorney disciplinary system in violation of that established by the General Assembly under Virginia Code §54.1-3935."

Mr. Rodriguez's argument does not explain the effect of Va. Code §54.1-3909 which specifically authorizes the Supreme Court to promulgate rules and regulations "prescribing procedures for disciplining, suspending, and disbarring attorneys". Presumably, he would have the courts of the Commonwealth of Virginia disregard the rules and regulations promulgated by the Supreme Court under that authority, vis Rules of Supreme Ct. of Va., Pt. 6, §IV, Para. 13., entitled Procedure forDisciplining, Suspending, and Disbarring Attorneys. Those rules and regulations create the Disciplinary Board and establish a mechanism for the administrative consideration of attorney discipline matters. As part of that mechanism, Rules of Supreme Ct. of Va., Pt. 6, §IV, Para. 13. I.1.a.(b) permits an attorney to "demand that the proceedings before the Board be terminated and that further proceedings be conducted pursuant to Va. Code §54.1-3935" (i.e. before a three-judge court). The attorney is required to make such demand within 21 days after disciplinary charges are certified to the Disciplinary Board. See Rules of Supreme Ct. of Va., Pt. 6, §IV, Para. 13. I.1.a. (b). This is in conformity with the requirements of Va. Code §54.1-3915 which provides that an attorney who demands to be tried by a court of competent jurisdiction shall not be tried in any other manner. Thus, as we understand it, attorney discipline matters in Virginia can be decided by the Disciplinary Board or by a three

judge court, depending on where the disciplinary charges are first brought, and whether the attorney demands a three-judge panel. See generally, Green v. Va. State Bar, 274 Va. 775, 652 S.E.2d 118 (2007) ; Cilman v. Va. State Bar, 266 Va. 66, 580 S.E.2d 830 (2003); Gunter v. Va. State Bar, 241 Va. 186, 399 S.E.2d 820 (1991)

The above discussion is intended only to evaluate the argument made by Mr. Rodriguez in this proceeding, whether the Disciplinary Board's order revoking his license to practice is void because the' Disciplinary Board had no authority to issue such an order. It is not intended to decide the question. That is a matter of Virginia law, and it is for the Virginia courts to decide. See, e.g., Mullaney v. Wilbur, 421 U.S. 684, 691 (1975) ("state courts are the ultimate expositors of state law * * * and we are bound by their construction except in extreme circumstances") . This Court is bound by the construction of Virginia law made by the Virginia courts. Id.

We note that the unpublished opinion of the United States Court of Appeals for the Fourth Circuit disbarring Mr. Rodriguez before that court describes the argument he made in that proceeding. See In re Isidoro Rodriguez, No. 06-9518, slip op. at 6-7 (4th Cir., Oct. 20, 2008). Mr. Rodriguez's argument in that proceeding is similar, if not identical, to the argument he is making in this Court. The opinion of the Court of Appeals describes his argument as follows:

> In this proceeding, Rodriguez takes issue with the first Selling condition only, contending that

> the Disciplinary Board lacked jurisdiction under the Constitution of Virginia to revoke his license to practice in the Commonwealth. More specifically, he asserts that Virginia's disciplinary procedures contravene the separation of powers clause of the Constitution of Virginia, and that only a Virginia court of record --rather than the Board – possesses the authority to sanction a Virginia attorney for professional misconduct. As a result, Rodriguez asserts that the revocation of his law license by the Board is void and that our reliance thereon would contravene the first Selling condition.

The opinion of the Court of Appeals also points out that the Supreme Court of Virginia had rejected the same argument when that court affirmed the order of the Disciplinary Board revoking Mr. Rodriguez' license to practice. The Court of Appeals opinion continues as follows:

> Importantly, Rodriguez presented the foregoing contention in his appeal of the Disciplinary Board's action to the Supreme Court of Virginia. As the Supreme Court has recognized, "the States have a compelling interest in the practice of professions within their boundaries, and . . . have broad power to establish standards f or licensing practitioners and regulating the practice of professions." Goldfarb v. Va. State Bar, 421 U.S. 773, 792 (1975) In its Order of July 17, 2007, the Supreme Court of Virginia affirmed the revocation of Rodriguez's license by the Board, thus rejecting the contention that his

> disbarment was void under the Constitution of Virginia. That determination was a matter within its power and there is no basis for that ruling to be disturbed by our Court. Id. at 6-7.

The opinion of the Court of Appeals concludes that "the Disciplinary Board's revocation of Rodriguez's license to practice in the Commonwealth of Virginia must be deemed valid in this proceeding". Id. at 7.

Similarly, the order of the United States Court of Appeals for the Third Circuit and the report of its Standing Committee on Attorney Discipline rejecting Mr. Rodriguez' application for reinstatement as a member of its bar describes the argument that Mr. Rodriguez had made in that proceeding, viz the action of the Disciplinary Board is void, etc., and the report of the Standing Committee points out that the Supreme Court of Virginia had rejected the same argument in affirming the order of the Disciplinary Board. See In re Isidoro Rodriguez, 304 F. Appx. 947, 952-955 (2008), cert. denied, 129 S. Ct. 2384, 173 L. Ed. 2d 1326 (2009). The report of the Standing Committee states, "it is clear that this Court should regard the Virginia proceedings as valid under Virginia law." at 954. The report also points out,

> In this case, * * * it is perfectly clear that the Virginia proceedings were valid as a matter of federal law and Rodriguez's contentions to the contrary are completely unmeritorious and require no discussion. [Citation ommitted.][Id.]

Thus, it is evident that the argument on which

Mr. Rodriguez relies in this proceeding, that the order of the Disciplinary Board is void, was considered and rejected by the Supreme Court of Virginia when it rejectedc Mr. Rodriguez' appeal of the Disciplinary Board's order. Like the court of Appeals for the Third and Fourth Circuits, we are bound by the action of the Supreme Court of Virginia. Accordingly, we reject Mr. Rodriguez's argument that the order of the Disciplinary Board is void.

In this proceeding, Mr. Rodriguez has not shown any of the three factors identified by the Supreme Court in Selling v. Radford, supra, which would justify not giving effect to the revocation of Mr. Rodriguez's license to practice law in the Commonwealth of Virginia. He has not shown that there was a "want of notice or opportunity to be heard" in the Virginia proceeding, that there was "an infirmity of proof as to facts found to have established the want of fair private and professional character", or that there was any "other grave reason" not to give effect to the actions of the Disciplinary Board and Supreme Court of Virginia. See Selling v. Radford, supra, at 51. Accordingly, we will give full effect to the revocation of Mr. Rodriguez's license to practice in the Commonwealth of Virginia.

We make one final observation about Mr. Rodriguez's argument. In this proceeding, he has continued his practice of making outlandish filings that demonstrate his unsuitability to practice law. For example, on September 1, 2009, the date of his hearing, Mr. Rodriguez filed a Supplemental Response reporting that he had issued two documents involving his case. The first document is a letter to the President of the

United States informing the President that Mr. Rodriguez has "been the target of an interstate business conspiracy" in retaliation for the actions he has taken to defend his rights as a father. According to the letter:

> The linchpin of this interstate criminal business conspiracy was: (1) the filing of two fraudulent bar complaints by then Beltway Lobbyist/Attorney Eric Holder and my former client with the Virginia State Bar Disciplinary Board (VSBDB); (2) the VSBDB issuing a *void* order revoking my in license for litigating to enforce my federal and Virginia statutory rights as a father and attorney (See, http://hom.earthlink.net/~treason/); and (3) Federal judges in VA, DC, CO, NY, and PA conspired to refuse to protect me as a victim of a conspiracy pursuant to 18 U.S.C. §3771, and to deny me access to impartial judicial review of VSBDB *void* order by refusing to comply with *Void* Order Doctrine, Marbury v. Madison, 1 Cranch 137 (1803), and Pennoyer v. Neff, 95 U.S. 714 (1877), the standard of Selling v. Redford, 243 U.S. 46 (1917), Theard v. United States, 354 U.S. 278 (1957), and Rules Enabling Act.

Mr. Rodriguez asks the President to reverse the decision of his staff not to become involved in legal matters, and to direct the Solicitor General to support Mr. Rodriguez's petition for certiorari challenging his disbarment by the United States Court of Appeals for the District of Columbia.

The second document is described in the Supplement Response as follows:

> Second, Exhibit 2, Criminal Complaint filed on August 7, 2009, with the FBI and the AUSA n VA, D.C., CO, NY, and PA, for the interstate criminal conspiracy to punish me as an independent federal civil litigator in violation of 18 U.S.C. § 4, 201, 241, 242, 1341, 1343, 1513, 1951, and the Racketeer Influenced and Corrupt Organizations Act (RICO) _ 18 U.S.C. §1962 (c)and (d), as well as Va. Code §18.2-481(5), 2-482, and 499, http://home.earthlink.net/~malfeasance.

Mr. Rodriguez's criminal complaint seeks to charge the Chief Justice of the United States, various federal and state judges, and others, including "Alberto Gonzalez", "Beltway Lobbyist/Attorney Eric Holder", and members of "the Committee on Admissions District of Columbia Court of Appeals" with various crimes.

CONCLUSION

Considering the entire record in this proceeding, we conclude that Mr. Rodriguez has not shown good cause why he should not be suspended, disbarred or otherwise disciplined, and we further conclude that, under Rule 202, the appropriate discipline in this case is disbarment.

Dated: October 16, 2009 Washington, D.C.

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Friday *the* 29th *day of* June, 2007.

Isidoro Rodriguez, Esq.

Appellant,

v. Record No. 070283, VSB Docket Nos. 04-052-0794, And 04-052-1044

Virginia State Bar,

Appellee.

Upon an appeal of right from an order entered by the Virginia State Bar Disciplinary Board.

Upon consideration of the record, briefs, and arguments by appellant, in proper person, and by counsel for the appellee, the Court is of the opinion that there is no error in the order of the Virginia State Bar Disciplinary Board (the "Board") revoking Isidoro Rodriguez's license to practice law in the Commonwealth of Virginia based upon finding that he violated Rules 1.2, 1.5, 1.7, 1.16, 3.1, 3.4, 3.7, 4.4, 7.1 and 8.4 of the Virginia Rules of Professional Conduct.

> In reviewing the Board's decision in a disciplinary proceeding, we conduct an independent examination of the entire record. We consider the evidence and all reasonable inferences that may be drawn form the evidence in the light most favorable to the Bar the prevailing party in the Board proceeding. We give the Board's factual finding substantial weight and view them as prima facie correct. While we do not give the Board's conclusions the weight of a jury verdict, we will sustain those conclusions unless it appears they are not

> justified by reasonable view of the evidence or are contrary to law. Barrett v. Virginia State Bar, 269 Va. 583, 587-88, 611 S.E.2d 375, 377 (2005) (quoting Williams v. Virginia State Bar, 261 Va. 258, 264, 542 S.E.2d 385, 389 (2001) (citations omitted); see also El-Amin v. Virginia State Bar, 257 Va. 608 612, 514 S.e.2d 163, 165 (1999); Myers v. Virginia State Bar, 226 Va. 630, 632, 312 S.E.2d 286, 287 (1984).

In making its determination, the Board considered allegations that Rodriguez violated the Rules of Professional Conduct during litigation involving two sets of cases. One group of cases involving Rodriguez's relationship and work with Sea Search Armada. The other group involved custody litigation regarding his son. The Virginia State Bar proved by clear and convincing evidence that Rodriguez violated Rules 1.2(a), 1.5(a), 1.16(a)(3), 3.4(I), 7.1(a), and 8.4(b) and (c) in his relationship with and representation of Sea Search Armada, including his attempts to recover unpaid attorney's fees. The Virginia State Bar proved by clear and convincing evidence that Rodriguez violated Rules1.7(b), 3.1, 3.4(d)(h)(i)(j), 3.7(a), 4.4, and 8.4.

We independently review each of the alleged Rule violations and find no error in the Board's order. Accordingly, the order appealed from is affirmed.

Appellant shall pay to the appellee thirty dollars damages.

This order shall be certified to the Virginia State Bar Disciplinary Board.

A Copy,Teste: /S/Patricia L. Hanninton, Clerk

VIRGINIA:
BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF ISIDORO RODRIGUEZ
VSB DOCKET NOS. 04-052-0794 and 04-052-1044

ORDER OF VIRGINIA STATE BAR DISCIPLINARY BOARD

THIS MATTER came on to be heard on the 26th and 27th days of October, 2006, before a panel of the Disciplinary Board consisting of James L Banks, Jr., 1st Vice-Chair, presiding,(the "Chair"), William C. Boyce Jr, Glenn M. Hodge, William F. (Hover, and Stephen A. Wannall, Lay member. The Virginia State Bar ("VSB" or "Bar") was represented by Noel D. Sengel, Senior Assistant Bar Counsel. The Respondent, Isidro Rodriguez, appeared in person and represented himself. The Chair polled the members of the Board Panel as to whether any of them was aware of any personal or financial interest or bias which would preclude any of them from fairly hearing this matter and serving on the panel, to which inquiry each member; including the Chair, responded in the negative. Donna T. Chandler, RPR, RMR, CCR of Chandler & Ralasz, court reporter. P.O. Box 9349, Richmond, Virginia, 23227, (804-730-1222) after being duly sworn, reported the hearing and transcribed the proceedings.

The matter came before the Board on the Subcommittee Determination(Corrected Certification) by the 5th District Committee Sec. II.

At the beginning of the proceedings the Respondent renewed his motion for the members of the panel to disqualify themselves as being interested patties for the reasons stated in his written motion previously filed. Upon consideration of this motion it was denied by the Panel for the reasons previously stated in the Board's Order of August 8,2006 that originally addressed Respondent's Motion to Recuse and Disqualify Members of the Disciplinary Board Within the Jurisdiction of N. Virginia and the U.S. Dist. Ct. for the RD. of Va. so to Assure Impartiality.

FINDINGS OF FACT

VSB Exhibits 1-92 were admitted during the course of the hearing without objection. The Respondent's Exhibits 1-42 were admitted during the course of the hearing without objection or over Bar counsel's objection. The VSB presented evidence through its witnesses, the Respondent cross-examined the witnesses and thereafter testified on his own behalf. After consideration of the exhibits and the testimony the Board makes the following findings of fact on the basis of clear and convincing evidence:

VSBNo. 04-052-0794

1. At all times relevant hereto, Isidoro Rodriguez, hereinafter the "Respondent", has been an attorney licensed to practice law in the Commonwealth of Virginia and his address of record with the Virginia State Bar has been 7924 Peyton Forest Trail, Annandale, VA 22003-1560. VSB Ex. 1. The Respondent received paper notice of this proceeding as

required by Part Six, IV, 13 (E) and (I)(a) of the Rules of Virginia Supreme Court. VSB Ex. 2.

2. The Complainant, Jack Harbeston, hereinafter referred to as "Harbeston", was the managing director of Sea Search Armada ("SSA") a Cayman Island entity that invests in and conducts searches for sunken treasure ships and engages in the salvage and the recovery of their contents. Sometime prior to 1988 SSA had discovered what it thought to be the remains of sunken Spanish ships off the coast of Colombia. SSA had been unable to have its rights to any sunken treasure recognized by the government of Columbia and was looking for legal representation in Colombia to assert its claims. Harbeston sought assistance from the Economic Officer at the United States Embassy in Bogota, Colombia for names of attorneys who could represent SSA The Economic Officer provided Harbeston with a list of attorneys in Colombia which included the Respondent as a member of the partnership of Devis and Rodriguez. Harbeston subsequently contacted the Respondent regarding possible legal representation. In his conversation with the Respondent, Harbeston learned that Devis, a Colombian attorney, would handle any litigation on behalf of SSA in the Colombian courts. Harbeston was looking for an American attorney, if possible, because of his concerns as to the potentially divided loyalty of a Colombian attorney. In correspondence between the Respondent and Harbeston, Respondent noted that he was the only attorney licensed in the United States working in Colombia and as such his firm was subject to the same standards as law firm in the United States; that unlike any other firm in Colombia his firm "must comply with the State of Virginia Bar Association's

Ethics of Professional Responsibility." VSB Ex. 4.

3. SSA subsequently hired the firm of Devis and Rodriguez. By agreement dated October 20, 1988, the parties entered into a representation agreement prepared by Rodriguez which set forth the terms of the engagement including a fee arrangement on an hourly basis that had been discussed prior to the execution of the agreement. VSB Ex. 7. By affidavit dated October 21, 1988, Harbeston, as managing Director of SSA, authorized the law firm of Devis and Rodriguez to act as SSA's legal representative to pursue its claims in Colombia.

4. In order for SSA to proceed with its claims in Colombia, SSA was required to appoint an agent with broad powers to represent SSA. By agreement dated December 16, 1988, executed in the District of Columbia, SSA appointed the Respondent as its legal representative in Colombia. Respondent's Ex. 8. However, Harbeston and SSA were concerned with the scope of the general power of attorney appointing Rodriguez as its agent in Colombia (Respondent's Ex. 8) and sought to limit his authority by advising the Respondent that he could only act upon the written authorization of Harbeston. By letter dated December 14, 1988, the Respondent acknowledged this limitation on his authority, noting that any violation of the restriction "will result in an action before The Virginia Bar Ethics Committee". VSB Ex. 9. By memorandum dated December 13, 1988, Harbeston advised all law firms employed by 58.4, including Devis and Rodriguez, that John Erlichman would coordinate and manage all litigation by SSA. VSB Ex. 8.

5. By letter dated January10, 1989 SSA authorized Respondent as its legal representative in

Colombia to file a lawsuit against the Republic of Colombia to confirm its rights to the sunken ships. VSB Ex. 12. Thereafter, Devis proceeded to pursue SSA's claims in the courts of Colombia with apparent skill and professionalism to the satisfaction of SSA. Harbeston soon became dissatisfied with the Respondent's performance because of actions he took without written authorization but nevertheless continued the representation arrangement because of his satisfaction with Devis' performance as a litigator. By memorandum to Respondent dated June 9, 1989, (VSB Ex. 13) Harbeston reaffirmed that Respondent was to take no action on behalf of SSA without Harbeston's written authorization as Respondent had acknowledged by his December 14,1988 letter. Sometime thereafter, but prior to January 1990, the law firm of Rodriguez and Devis had dissolved but Devis continued to represent SSA in its ongoing litigation against the Republic of Colombia. By agreement dated January 3, 1991, Respondent, acting as attorney for SSA, entered into a professional services agreement with Devis to continue with the litigation on behalf of SSA against the Republic of Colombia. This agreement changed the fee arrangement to a contingency fee arrangement whereby Devis would receive 20% of any recovery. VSB Ex. 14. Devis and the Respondent then entered into an agreement to share any contingent fee recovery.

6. By request dated January 3, 1990, the Respondent sought a legal ethics opinion from the VSB that as a Virginia attorney who had entered into a contract in Idaho to be performed in a foreign country, whether he could terminate his representation because the client had failed to pay his fee and could sue the

client to collect such a fee. The VSB Ethics Committee gave its opinion on the issue (LEO 1325) that under the facts presented, the Respondent could terminate his representation and sue the client for fees, with the opinion concluding with the customary notice that it was an advisory opinion and not binding on any court. VSB Ex. 18.

7. Devis continued the litigation successfully as the case made its way through the Colombian judicial system as the Colombian government appealed each adverse decision. Respondent does not appear to have played any role in the litigation. By letter dated March 24,2000 Devis advised Respondent not to use his name in Respondent's professional activities, and that Harbeston was upset with Respondent's activities and wanted to revoke the power of attorney. VSB Ex. 15. Devis acknowledged he would honor their contingent fee sharing arrangement By letter dated April 6,2000, Harbeston revoked the general power of attorney from SSA to Respondent (which he had forgotten to do earlier), stating that neither SSA nor its related entities owed Respondent any legal fees and that any understanding relating to fees was in the agreement between Devis and Respondent to share any contingency fee. VSB Ex. 16.

8. In September of 2000 the Respondent filed suit against SSA in the United States District Court for the Eastern District of Virginia seeking to enforce a claim for attorney's fees in the amount of $4.5 million against SSA. VSB Ex. 19, The Respondent testified that he based the amount of his attorney's fee claim on the annual salary ($300,000 to $400,000) of a legal representative of a United States company in a foreign land for a period of 12 years. Included as defendants in

this litigation were Harbeston, related entities to SSA and Devis. None of the defendants were residents of the Commonwealth of Virginia. The Respondent basis for jurisdiction by the federal court in Virginia was the fact that he was a Virginia attorney, Virginia Code Section 54.1-3932 grants an attorney a lien for fees and LEO 1325 which said he could sue his client. The defendants in this litigation obtained the services of Harrison Pledger, a Virginia attorney, who filed a motion to dismiss based on the lack of personal jurisdiction over the defendants. This motion was granted and the suit was dismissed. The Respondent then appealed to the Fourth Circuit Court of Appeals and that court affirmed the District Court's ruling. The Respondent then petitioned for a Writ of *Certiorari* in the United States Supreme Court but that petition was denied.

9. After the denial of The Writ of Certiorari by the United States Supreme Court the Respondent filed a slightly different law suit in the United States District Court for the Eastern District of Virginia against the defendants in the earlier suit and also added several other defendants who were investors in SSA or related entities. VSB Ex. 20. The District Court dismissed this second law suit, finding that the Respondent had failed to plead additional facts to the first suit to give the court personal jurisdiction over any of the defendants. This ruling was affirmed on appeal to the Fourth Circuit The Respondent then sought a Writ of *Certiorari* from the United States Supreme Court which was also denied.

10. While the appeal of the second lawsuit was pending, the Respondent filed a third similar lawsuit - this time in the Circuit Court of Fairfax County against SSA. In this third lawsuit the Respondent named the

defendants in the second law suit and Harrison Pledger and his law firm as defendants. VSB Ex. 21. This law suit was also dismissed but the court denied the defendants' motions for sanctions.

11. The Respondent created a website which displayed false and misleading information regarding his relationship with SSA and his participation in the litigation in Colombia. VSB Ex 24 & 25. On the site, the Respondent claimed that in 1988, at the request of the United States Department of State, he became SSA's legal representative and managing attorney responsible for managing alternative dispute resolution negotiations and outside counsel in litigation against the government of Colombia, posts he claims he held until 2000. These assertions are not true. On his resume, the Respondent listed a LLM Civil law degree from the University of Bordeaux. While the Respondent attended a class at the University of Bordeaux, he never received a degree from that university. The Respondent also listed an American Trial Lawyers Ultimate Trial Lawyer Certification. There is no such certification. The basis for Respondent's claim is the fact that he attended a one week continuing legal education program sponsored byte Association of Trial Lawyers of American titled "Ultimate Trial Advocacy".

12. Respondent, in 2004,while communicating with the U.S. State Department regarding Freedom of Information Act ("FOIA") requests he had made for information relating to SSA litigation, represented that he was the attorney for SSA notwithstanding the fact that Harbeston had revoked his authority in 2000. VSB Ex. 23. Respondent claimed that since the power of attorney filed with the Colombian government had never been terminated he was not making a

misrepresentation in his FOIA request.

VSB Docket No. 04-502-1044

1. The Respondent lived for many years in Colombia and had married Amalin Hazbun Escaf a citizen of Colombia. One son was born of the marriage. The marriage ultimately ended in a divorce in Colombia with the wife/mother obtaining custody of the son by order of a Colombian court with visitation rights to the Respondent.

2. The Respondent subsequently returned to the United States where he has been living and his son visited him pursuant to the visitation rights granted by the Colombian Court. In 2001 while the son was visiting the Respondent the Respondent refused to return his son to Colombia and filed an action in the Juvenile and Domestic Relations Court in Fairfax County to gain custody of his son.

3. In 2001, subsequent to the filing of Respondent's suit in the Juvenile and Domestic Relations Court in Fairfax County, Respondent's ex-wife filed an action in the United States District Court for the Eastern District of Virginia, under the Hague Convention on the Civil Aspects of Child Abduction (the "Hague Convention") and the International Child Abduction Remedies Act ("ICARA") in order to secure the return to Colombia of her son. VSB Ex. 34. In this litigation she was represented by Patrick Stiehm, a Virginia attorney who had undertaken this representation *pro bono* at the request of the National Center for Missing and Exploited Children ("NCMEC"). NCMEC is a non profit corporation that acts as a neutral in facilitating the

processing of claims under the Hague Convention and ICARA. When Stiehm initially contacted Respondent to inform him of the pending litigation, Respondent told Stiehm that his *pro bono* representation would cost Stiehn "a big chunk of change." In keeping with this threat, Respondent immediately filed a motion for sanctions against Stiehn (VSB Ex. 35) but that motion was denied. VSB Ex. 38. However, Respondent's subsequent litigation described herein, which included Stiehm as a defendant, resulted in Stiehm incurring significant legal expenses to respond to meritless and vexatious litigation.. After a bench trial the Court ruled that the Respondent had kept the child in Virginia in violation of his ex-wife's custody rights. VSB Ex. 39. The Court ordered that the child be removed from the Respondent's custody and returned to the child's mother in Colombia The Respondent's appeals to the Fourth Circuit Court of Appeals and the United States Supreme Court were denied. After all appeals and stays were denied the son was reunited with his mother and left for Colombia in June of 2002.

4. In January of 2003, the Respondent filed suit in the District Court for the District of Columbia against numerous defendants, including NCMEC, several employees of NCMEC, the United States District Court for the Eastern District of Virginia, the Fourth Circuit Court of Appeals, the Circuit Court of Fairfax County, the Court of Appeals of Virginia, the District Court for the District of Columbia, the United States Court of Appeals for the District of Columbia; various judges, a court clerk, the United States Department of State, Patrick Stiehm and Stephen Cullen (an attorney who had assisted Stiehm in the Virginia litigation) claiming a constitutional conspiracy

by the defendants against him in his litigation in Virginia. VSB Ex. 43. Staff members of NCMEC had been witnesses in the Virginia litigation and NCMEC had provided legal representation to witnesses in the litigation in Virginia. In filing this litigation in which Respondent and his son were named as plaintiffs, Respondent who is not licensed to practice in the District of Columbia and had not obtained an order to appear *pro hoc vice*, attempted to act as attorney for his son.

5. In March of 2003, the Respondent filed a Writ of Mandamus in an attempt to compel NCMEC to take actions to force the country of Colombia to grant the Respondent access to his son. VSB Ex. 64. By letter dated September 24,2003, Warren L. Dennis, Esquire, counsel for NCMEC, informed the Clerk of the United States Supreme Court that NCMEC would not be filing a responsive brief to the Respondent's Writ because, inter alia, it had no power to compel the government of the country of Colombia to do anything. VSB Ex. 65. Upon receipt of a copy of the letter, the Respondent called Mr. Dennis's office and left a voice mail message in which he threatened to file an ethics complaint because the letter falsely characterized the Respondent's Virginia litigation. Also, by letter dated September 29,2003, the Respondent gave notice of his intent to file a judicial complaint and District of Columbia Bar complaint against those involved in the litigation unless facts already proved were proved within twenty-four (24) hours. VSB Ex 67.

6. In the District of Columbia litigation the Respondent repeatedly filed pleadings with no basis in law or fact. VSB Ex. 43 - 81. In an amended complaint (VSB Ex. 72) Respondent asserted a claim under the

Racketeer Influenced and Corrupt Organization Act (RICO) 18 U.S.C. 1961. Included as defendants in the complaint were the United States Supreme Court; the United States Court of Appeals for the Fourth Circuit; the United States Court of Appeals for the District of Columbia, the United States District Court for the Eastern District of Virginia, the United States District Court for the District of Columbia, the Virginia Supreme Court, the Court of Appeals of Virginia and the Circuit Court of Fairfax County. Respondent's actions in the D.C. litigation clearly demonstrates his use of the legal system to harass and intimidate anyone whom he considered to have been involved in the Virginia litigation that returned his son to Colombia and to re-litigate the Virginia case.

7. Respondent's actions in naming NCMEC and some of its employees as defendants in this litigation cost NCMEC over $160,000 in legal expenses and nearly bankrupted the organization. Throughout the course of this litigation, the Respondent misrepresented his credentials as a lawyer and his license status in the District of Columbia and New York to the courts and opposing parties. The Respondent graduated from law school in 1976. He was first licensed to practice law in the Commonwealth of Virginia in 1982. Virginia is the only jurisdiction in which Respondent has a license to practice law. The Respondent listed a number of governmental and quasi governmental legal jobs in the District of Columbia on his resume between the years 1976 and 1982 requiring a valid law license in the United States, during which period he was not licensed to practice law anywhere in the United States. The Respondent also noted on various documents that he practiced law in the District of Columbia for a period

of time after his licensure in Virginia, but has never been licensed in the District of Columbia.

8. During this litigation, the Respondent filed pleadings and attempted to represent his minor son on several occasions in the District of Columbia litigation, despite the fact there was a conflict of interest between the father and son, despite the fact that the Respondent would be a witness in the case and despite the fact that the judge instructed the Respondent to cease representing his son. VSB Ex 48 & 50. The Respondent's law partner also attempted to represent the son but the court refused to permit that representation.

I. MISCONDUCT

The Certification for VSB Docket No. 04-052-0794 charges violations of the following provisions of the Virginia Rules of Professional Conduct:

RULE 1.2 Scope of Representation

(a) A lawyer shall abide by a client's decisions concerning the objectives of representation, subject to paragraphs (b), (c), and (d), and shall consult with the client as to the means by which they are to be pursued. A lawyer shall abide by a client's decision, after consultation with the lawyer, whether to accept an offer of settlement of a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.

RULE 1.5 Fees

(a) A lawyer's fee shall be reasonable. The factors to be considered in determining the reasonableness of a fee

include the following:

(1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

(2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer,

(3) the fee customarily charged in the locality for similar legal services;

(4) the amount involved and the results obtained;

(5) the time limitations imposed by the client or by the circumstances;

(6) the nature and length of the professional relationship with the client;

(7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and

(8) whether the fee is fixed or contingent.

RULE 1.16 Declining Or Terminating Representation

(a) Except as stated in paragraph (c), a lawyer shall not represent a client or where representation has commenced, shall withdraw from the representation of a client if:

(3) the lawyer is discharged.

RULE 3.4 Fairness To Opposing Party And Counsel

A lawyer shall not:

(1) file a suit, initiate criminal charges, assert a position, conduct a defense, delay a trial, or take other action on behalf of the client when the lawyer knows or when it is obvious that such action would serve merely to harass or maliciously injure another.

RULE 7.1 Communications And Advertising Concerning A Lawyer's Services

(a)A lawyer shall not, on behalf of the lawyer or any other lawyer affiliated with the lawyer or the firm, use or participate in the use of any form of public communication if such communication contains a false, fraudulent, misleading, or deceptive statement or claim. For example, a communication or advertisement violates this Rule if it:

(1) contains misleading fee information;

(2) states or implies that the outcome of a particular legal matter was not or will not be related to its facts or merits;

(3) compares the lawyer's services with other lawyers' services, unless the comparison can be factually substantiated;

(4) contains an endorsement by a celebrity or public figure who is not a client of the firm without disclosure (I) of the fact that the speaker is not a client of the lawyer or the firm, and (ii) whether the speaker is being paid for the appearance or endorsement; or

(5) contains a portrayal of a client by a non-client without a disclosure that the depiction is a dramatization.

In the determination of whether a communication or advertisement violates this Rule, the communication or advertisement shall be considered in its entirety including any qualifying statements or disclaimers contained therein.

RULE 8.4 Misconduct

It is professional misconduct for a lawyer to:

(b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer;

(c) engage in professional conduct involving dishonesty, fraud, deceit or misrepresentation;

The Certification for VSB Docket No. 04-052-1044 charges violations of the following provisions of the Virginia Rules of Professional Conduct:

RULE 1.7 Conflict of Interest: General Rule

(b) A lawyer shall not represent a client if the representation of that client may be materially limited by
the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interests, unless:
(1) the lawyer reasonably believes the representation will not be adversely affected; and
(2) the client consents after consultation. When representation of multiple clients in a single matter is undertaken, the consultation shall include explanation of the implications of the common representation and the advantages and risks involved.

RULE 3.1 Meritorious Claims And Contentions

A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could
result in incarceration may nevertheless so defend the proceeding as to require that every element of the case be established.

RULE 3.3 Candor Toward The Tribunal

(a) A lawyer shall not knowingly
(1) make a false statement of fact or law to a tribunal;
(2) fail to disclose a fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client, subject to Rule 1.6;

(3) fail to disclose to the tribunal controlling legal authority in the subject jurisdiction known to the lawyer to be adverse to the position of the client and not disclosed by opposing counsel; or
(4) offer evidence that the lawyer knows to be false. If a lawyer has offered material evidence and comes to know of its falsity; the lawyer shall take reasonable remedial measures.

RULE 3.4 Fairness To Opposing Party And Counsel. A lawyer shall not:
(d) Knowingly disobey or advise a client to disregard a standing rule or a ruling of a tribunal made in the course of a proceeding, but the lawyer may take steps, in good faith, to test the validity of such rule or ruling.
(h) Present or threaten to present criminal or disciplinary charges solely to obtain an advantage in a civil matter.
(I) File a suit, initiate criminal charges, assert a position, conduct a defense, delay a trail, or take other action on behalf of the client when the lawyer knows or when it is obvious that such action would serve merely to harass or maliciously injure another. Effective January 1,2004
(j) Present or threaten to present criminal or disciplinary charges solely to obtain an advantage in a civil matter,
(k) File a suit, initiate criminal charges, assert a position, conduct a defense, delay a trail, or take other action on behalf of the client when the lawyer knows or when it is obvious that such action would serve merely to harass or maliciously injure another.

RULE 3.7 Lawyer As Witness
(a) A lawyer shall not act as an advocate in an

adversarial proceeding in which the lawyer is likely to be a necessary witness except where:

(1) the testimony relates to an uncontested issue;

(2) the testimony relates to the nature and value of legal services rendered in the case; or

(3) disqualification of the lawyer would work substantial hardship on the client.

RULE 44 Respect For Rights Of Third Persons

In representing a client, a lawyer shall not use means that have no purpose other than to embarrass, delay; or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.

RULE 5.5 Unauthorized Practice Of Law

(a) A lawyer shall not:

(1) practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction; or

(2) assist a person who is not a member of the bar in the performance of activity that constitutes the unauthorized practice of law.

RULE 7.1. Communications Concerning A Lawyer's Services

(a) A lawyer shall not, on behalf of the lawyer or any other lawyer affiliated with the lawyer or the firm, use or participate in the use of any form of public communication if such communication contains a false, fraudulent, misleading, or deceptive statement or claim. For example, a communication violates this Rule if it:

(1) contains false or misleading fee information; or

(2) states or implies that the outcome of a

particular legal matter was not OR will not be related to its facts or merits; or

(3) compares the lawyer's services with other lawyers' services, unless the comparison can be factually substantiated; or

(4) is likely to create an unjustified expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate the Rules of Professional Conduct or other law.

RULE 7.4 Communication Of Fields Of Practice And Certification

Lawyers may state, announce or hold themselves out as limiting their practice in a particular area or field of law so long as the communication of such limitation of practice is in accordance with the standards of this Rule, Rule 7.1, and Rule 7.3, as appropriate. A lawyer shall not state or imply that the lawyer has been recognized or certified as a specialist in a particular field of law except as follows:

(a) A lawyer admitted to engage in patent practice before the United States Patent and Trademark Office may use the designation "Patent Attorney" or a substantially similar designation;

(b) A lawyer engaged in Admiralty practice may use as a designation "Admiralty," "Proctor in Admiralty" or a substantially similar designation;

(c) A lawyer who has been certified by the Supreme Court of Virginia as a specialist in some capacity may use the designation of being so certified, e.g., "certified mediator" or a substantially similar designation;

(d) A lawyer may communicate the fact that the lawyer has been certified as a specialist in a field of law

by a named organization, provided that the communication clearly states that there is no procedure in the Commonwealth of Virginia for approving certifying organizations. Effective Nov. 1,2002

(a) A lawyer admitted to engage in patent practice before the United States Patent and Trademark Office may use the designation "Patent Attorney" or a substantially similar designation;

(b) A lawyer engaged in Admiralty practice may use as a designation "Admiralty," "Proctor in Admiralty" or a substantially similar designation;

(c) A lawyer who has been certified by the Supreme Court of Virginia as a specialist in some capacity may use the designation of being so certified, e.g., "certified mediator" or a substantially similar designation;

(d) A lawyer may communicate the fact that the lawyer has been certified as a specialist in a field of law by a named organization, provided that the communication clearly states that there is no procedure in the Commonwealth of Virginia for approving certifying organizations.

RULE 8.4 Misconduct

It is professional misconduct for a lawyer to:

(b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer;

(c) engage in professional conduct involving dishonesty, fraud, deceit or misrepresentation;

Effective Mar. 25, 2003

(b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness to practice law.

(c) engage in conduct involving dishonesty, fraud,

deceit or misrepresentation which reflects adversely on the lawyer's fitness to practice law;

III. DISPOSITION

Upon review of the forgoing finding of facts, the exhibits presented by Bar Counsel on behalf of the VSB as Exhibits 1- 92, the exhibits presented by the Respondent as The Respondent's Exhibits 1-42, the evidence from witnesses presented on behalf of the VSB and evidence presented by the Respondent in the form of his own
testimony, and at the conclusion of the evidence regarding misconduct, the Board recessed to deliberate. After deliberation the Board reconvened and stated that it had found by clear and convincing evidence that the Respondent had violated The following Rules of Professional Conduct: in Docket No. 04-052-0794, Rule 1.2(a); 1.5(a); l.16(a)(3); 3.4(I); 7.1(a); 8.4(b) & ©); in Docket No. 04-052-1044. Rule 1.7(b) 1-2; 3.1; 3.4 (d)(h)(i)(j); 3.7(a)(1-3); 4.4 and 8(b) and (c).

The Board stated that the Bar had failed to prove by clear and convincing evidence any violation of the following the Rules of Professional Conduct: 3.3(a)1-4; 5.5(a)l-2; 7.1(a)1-4; 7.4(a)(b)(c)(d); and effective Nov. 1, 2002 7.4(a)(b)(c)(d).

The bases for the Boards finding of violation of the Rules of Professional Conduct are as follows:

VSB Docket No. 04-052-0794

(a) The Respondent violated Rule 1.2(a) (Scope of Representation) in that his authorization to act on behalf of his client SSA was limited, but he nonetheless acted without written authorization from his client.

Furthermore, after he had been discharged by SSA, he wrote the Department of State claiming to be the managing attorney of SSA, which was not the case. He also made a FOIA request without any authorization.

(b) The Respondent violated Rule 1.5(a) 1-8 (Fees) with his claim of a fee of 4.5 million dollars. Respondent acknowledged that the fee arrangement was a contingent fee arrangement and no recovery had been made. Therefore, there was no basis to claim a fee. Furthermore, the amount of the fee, $4.5 million, does not appear to have any reasonable relationship to work actually performed which is necessary for a recovery on a quantum merit basis. Respondent testified that he determined the amount based upon what the salary would be for a legal representative for a U.S. company operating in a foreign country.

(c) The Respondent violated Rule 1.16 (a)(3) (Declining or Terminating Representation) by representing that he was SSA's managing attorney in a FOIA request (VSB Ex. 23), which he made well after SSA had terminated their relationship.

(d) The Respondent violated Rule 3.4(I) (Fairness to Opposing Party and Counsel) by tiling the litigation in the United States District Court for the Eastern District of Virginia and the Circuit Court of Fairfax County, Virginia. It should appear to any reasonably competent lawyer that the courts did not have jurisdiction over the parties named as defendants. Even giving the Respondent the benefit of the doubt as to the first suit, he received a ruling that the court lacked personal jurisdiction over the defendants which was upheld on appeal. He nonetheless filed a second suit with the same infirmity seeking the same recovery. Furthermore, his suit in the Circuit Court of Fairfax

County, Virginia, included as a defendant Harrison Pledger and his law firm, merely because Mr. Pledger had acted as defense counsel in the two suits in the federal court

(e) The Respondent violated Rule 7.1(a) 1-5 (Communication Concerning a Lawyer's Services) by misrepresentation on his website and resume. VSB Exhibits 24 and 25 show that Mr. Rodriguez, on the website he created, misrepresented his relationship with SSA. He misrepresented what he did for SSA and how he became employed by SSA. He misrepresented his education by listing an LLM civil law degree from the University of Bordeaux. He improperly claimed a certification (the American Trial Lawyer Ultimate Trial Lawyer Certification) where no such certification exists.

(f) The Respondent violated Rule 8.4(b) and 8.4(c) (Misconduct) by representing in his FOIA request that he was the managing attorney for SSA, when the evidence shows that he clearly was not.

VSB Docket No. 04-052-1044

(a) The Respondent violated Rule 1.7(b) 1-2 (Conflict of interest) in his attempt to represent his son in the District Court for the District of Columbia and his continued actions to do so even in the face of a court ruling that there was a conflict.

(b) The Respondent violated Rule 3.1 (Meritorious Claims and Contentions) by his litigation in the District Court for the District of Columbia and his actions in the Circuit Court of Fairfax County, Virginia. The complaint filed by the Respondent with all the parties he named as defendants standing alone shows that the Respondent has violated this Rule. The

numerous pleadings filed thereafter further demonstrate that the Respondent's aim was to punish anyone who had any connection with the litigation filed by his former wife to regain custody of their son. Any attorney who had in any way appeared in that litigation ended up being named as a defendant. NCMEC and several of its staff were named as defendants resulting in a legal cost to NCMEC alone of $160,090.00 Attorney Patrick Stiehm who had taken Respondent's ex-wife's case pro bono was named as a defendant thereby making good on Respondent's claim that Stiehm's representation would cost him a "big chunk of change."

Furthermore, in litigation in Fairfax County, Respondent subpoenaed two members of NCMEC as witnesses for a hearing involving his efforts to file a Statement of the Case for an appeal, when these two staff members had nothing to do with the Fairfax litigation. While the subpoenas were quashed they nevertheless had the effect of harassing the NCMEC staff members. Remarkably this is the only instance in which the Respondent was sanctioned by a court.

Perhaps if he had been sanctioned earlier, either by the United States District Court for the Eastern District of Virginia or the District Court for the District of Columbia, such action would have put a stop to Respondent's unwarranted and vexatious conduct. Unfortunately neither of the courts saw fit to impose sanctions.

(c) The Respondent violated Rule 3.4(d)(h(i)(j) (Fairness to Opposing Party and Counsel) by the following conduct: (1) by continuing to attempt to represent his son in the District of Columbia litigation in the face of a court ruling, in violation of Rule 3.4(d);

(2) by threatening the NCMEC attorney with a bar complaint and filing a criminal complaint with the FBI, in violation of 3.4(h); (3) by filing a motion for sanctions against Patrick Stiehm and naming Stiehm as a defendant in the District of Columbia litigation and by his entire course of conduct in the District of Columbia litigation, in violation of Rule 3.4(i)(j);

(d) The Respondent violated Rule 3.7(a) 1-3 (Lawyer as Witness) by acting as an advocate when he was a necessary witness in the Eastern District of Virginia litigation.

(e) The Respondent violated Rule 4.4 (Respect for the Rights of Third Persons) by the whole course of litigation in the District Court for the District of Columbia. In addition, his subpoena of Ms. Brinkerhoff and Mr. Dennis to the Fairfax Circuit Court for a bearing on the Statement of Facts to be submitted for appeal further demonstrates a violation of this Rule.

(f) The Respondent violated Rule 8.4(b) and 8.4(c) (Misconduct) in asserting a RICO claim and by his letter to the FBI.

Thereafter, the Board received further evidence of aggravation and mitigation from the Bar and the Respondent, including the Respondent's prior disciplinary record. The Board recessed to deliberate what sanction to impose upon its findings of misconduct by the Respondent. After due deliberation the Board reconvened to announce the sanction imposed. The Chair announced the sanction as REVOCATION. The Board in reaching its decision of revocation recognized that the violation of certain of the Rules such as Rule 1.5(a), 7.1, and 8.4(b) & (c) standing alone may not merit the ultimate sanction of revocation. However, the Respondent's conduct by

pursuing litigation in Virginia in Docket No. 04-052-0794 and in the District of Columbia in Docket No. 04-052-1044 is conduct that cannot be tolerated. While a court through sanctions can protect itself from such conduct by a deceitful and unprincipled attorney, the public must look to the VSB for protection. The other violations demonstrate Respondent's complete disregard for the Rules of Professional Conduct.

Furthermore the Respondent was defiant to any criticism of his conduct in pursuing what can only be described as meritless and vexatious litigation. This same defiance was evident to the Board as the Respondent sought to justify his conduct. Therefore the Board concluded that the sanction of revocation was the only remedy by which the public and bar could be adequately protected.

Accordingly, it is ORDERED that the Respondent's license to practice law in the Commonwealth of Virginia is revoked, effective October 27, 2006.

It is further ORDERED that the Respondent must comply with the requirements of Part Six, § IV, ¶ 13(M) of the Rules of the Supreme Court of Virginia. The Respondent shall forthwith give notice by certified mail, return receipt requested, of the revocation of his license to practice law in the Commonwealth of Virginia, to all clients for whom he is currently handling matters and to all opposing attorneys and presiding judges in pending litigation. The Respondent shall also make appropriate arrangements for the disposition of matters then in his care in conformity with the wishes of his client The Respondent shall give such notice within 14 days of the effective date of the revocation, and make such arrangements as are

required herein within 45 days of the effective date of the revocation. The Respondent shall also furnish proof to the Bar within 60 days of the effective day of the revocation that such notices have been timely given and such arrangements made for the disposition of matters.

It is further ORDERED that if the Respondent is not handling any client matters on the effective date of October 27,2006, he shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13 (M) shall be determined by the Virginia State Bar Disciplinary Board, unless the Respondent makes a timely request for hearing before a three-judge court.

It is further ORDERED that pursuant to Part Six, § IV, ¶ 13,B.8.c. of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess all costs against the Respondent.

It is further ORDERED that the Clerk of the Disciplinary System shall mail an attested copy of this order to the Respondent at his address of record with the Virginia State Bar, being 7924 Peyton Forest Trail, Annandale, VA 22003-1560, by certified mail, return receipt requested, and by regular mail to Noel 0. Sengel, Bar Counsel, Virginia State Bar, Suite 310, 100 North Pitt Street, Alexandria, Virginia, 22314-3133.

ENTERED this 28th day of November, 2006

VIRGINIA STATE BAR DISCIPLINARY BOARD

By: /S/ _____

James Leroy Banks., Jr. 1st Vice Chair